

ORDINANCE NO. 2013-048

AN ORDINANCE of the City of Yakima, Washington, adopting a six-month moratorium, through midnight of May 6, 2014, on the filing, acceptance and processing of applications, and issuance of land use and development permits for, production, processing and retailing of marijuana as authorized pursuant to Initiative 502 approved by the voters on November 6, 2012; setting public hearing on the moratorium adopted herein for November 5, 2013; directing development of comprehensive regulations pertaining to the production, processing and retail sale of marijuana; and providing for effective date.

WHEREAS, the people of the State of Washington on November 6, 2012 approved Initiative 502 decriminalizing possession and use of certain amounts of marijuana and drug paraphernalia associated with marijuana, and authorized the Washington State Liquor Control Board (WSLCB) to develop and promulgate rules and regulations pertaining to the licensing of marijuana production, processing and retail sale; and

WHEREAS, pursuant to Initiative 502 the WSLCB was directed to adopt administrative rules and procedures for licensing of marijuana production, processing and retailing on or before December 1, 2013; and

WHEREAS, the WSLCB has announced that it is ready to adopt and issue such rules and regulations on or about November 18, 2013 and thereafter to receive applications for licenses for marijuana production, processing and retail sale, and to begin issuance of such licenses after December 18, 2013; and

WHEREAS, the City of Yakima has previously adopted an ordinance codified at YMC 15.01.035 providing that no use that is illegal under local, state or federal law shall be allowed within the City of Yakima, and specifically bans medical marijuana dispensaries and collective gardens under the application of such code; and

WHEREAS, beyond the provisions of YMC 15.01.035, the City of Yakima has no specific code or ordinance specifically regulating land uses for the marijuana production, processing and/or retail sale authorized pursuant to Initiative 502 and the regulations to be promulgated by the WSLCB; and

WHEREAS, the existing land use regulations of the City of Yakima do not address zoning districts or areas eligible to accommodate marijuana production, processing and retailing, and the City would benefit from an opportunity to study the location of such uses and where such uses may be detrimental to the community; and

WHEREAS, allowing facilities for the production, processing and retailing of marijuana to proliferate without studying the impacts of such uses throughout the City, is likely to result in probable significant environmental impacts on adjacent land uses, including but not limited to residential neighborhoods, businesses, churches and public property such as parks and recreational trails; and

WHEREAS, RCW 36.70A.390 and RCW 35.63.200 authorize the City Council to adopt an ordinance imposing a moratorium and provides a process for public hearing which must be held within sixty days of the date of adoption of the moratorium; and

WHEREAS, the City Council finds and determines that the City of Yakima needs time to consider additional zoning regulations and land use regulations which would deal specifically with such marijuana production, processing and retailing as authorized pursuant to Initiative 502, and the City Council has therefore decided to impose a moratorium for the term of six months, commencing on the effective date of this ordinance and extending through May 6, 2014, in order to study the issue as determined by the City Council and to consider adopting appropriate regulations; and

WHEREAS, the City Council finds and determines that imposition of a moratorium is necessary to (a) provide the City with an opportunity to study the issues regarding siting, zoning and land use regulation of marijuana production, processing and retailing, and to prepare appropriate revisions to the City's codes and regulations; (b) to protect the health, safety and welfare of the citizens of Yakima by avoiding and ameliorating negative impacts of the proliferation of locations for marijuana production, processing and retailing; and (c) avoid applicants possibly establishing vested rights contrary to and inconsistent with any revisions the City may make to its regulations and codes as a result of the City's study of this matter; and

WHEREAS, the City Council authorizes and directs the City Manager to review existing City codes and zoning regulations, further study the effects resulting from any approval of Initiative 502 and implementing regulations, prepare comprehensive proposed amendments to the City codes and zoning regulations to address the effects of such initiative, to confer with community members and City advisory commissions as appropriate, and to present recommended legislation addressing such issues to the City Council for consideration and action; and

WHEREAS, the City Council finds and determines that a public hearing on this moratorium should be held on November 5, 2013, whereupon the City Council may adopt findings of fact in support of the adoption of this moratorium, or modify the terms thereof; and

WHEREAS, notwithstanding the term of six months set forth above for the moratorium adopted herein, this moratorium may at any time hereafter be (a) modified by the City Council in accordance with applicable law; (b) extended for additional term(s) of six months upon action following public hearing and adoption of findings in support thereof; (c) terminated by the City Council upon adoption of appropriate zoning and regulatory codes; or (d) terminated by the City Council for any reason deemed necessary or appropriate; now, therefore:

BE IT ORDAINED BY THE CITY OF YAKIMA:

Section 1. Moratorium Established. From and after the effective date of this ordinance, the City shall not allow the filing of or accept any application for a building permit, tenant improvement, business license, subdivision, short subdivision, site plan review, or any other development, or for any building (including any additions, expansions, or modifications thereto), land, structure or land use, in which the production, processing and/or retail sale of marijuana are, or are proposed to be, operated or conducted. From and after the effective date of this ordinance, no new land use which operates or conducts the production, processing and/or retail sale of marijuana as authorized pursuant to Initiative 502 and its implementing regulations shall be located within the City. As used in this ordinance, the terms "production,"

"processing" and "retailing" of marijuana are defined as provided in Initiative 502 and regulations implementing such initiative promulgated by the WSLCB, as now existing or as hereafter adopted or amended.

Section 2. Public Hearing. Pursuant to RCW 36.70A.390 and RCW 35.63.220, a public hearing will be held on Tuesday, November 5, 2013, for the purpose of taking testimony and, if this ordinance is passed, adopting written findings and conclusions justifying the moratorium established by this ordinance.

Section 3. Effective Period of Moratorium. The moratorium adopted by this ordinance shall become effective thirty (30) days after passage and publication as required by the Charter of the City of Yakima, and shall remain in effect for six months, through May 6, 2014, subject to adoption of findings and conclusions as provided in Section 2 above. This moratorium shall also terminate upon the adoption of permanent regulations governing the location and land use of persons and businesses operating with licenses for the production, processing and retailing of marijuana authorized pursuant to Initiative 502. Notwithstanding the above, this moratorium may be extended as provided in RCW 36.70A.390 and RCW 35.63.200.

Section 4. Directive to City Manager. The City Council hereby authorizes and directs the City Manager to review existing City codes and zoning regulations; to further study the effects resulting from the licensing and location of marijuana production processing and retailing; to prepare comprehensive proposed amendments to the City codes and zoning regulations to address the effects of Initiative 502 and its implementing regulations; to confer with community members and City advisory commissions as appropriate; and to present recommended legislation addressing such issues to the City Council for consideration and action.

Section 5. Severability. If any section, sentence, clause or phrase of this ordinance should be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity of constitutionality of any other section, sentence, clause or phrase of this ordinance.

Section 6. Effective Date. This ordinance shall be in full force and effect thirty (30) days after its passage and publication as provided by law and the City Charter.

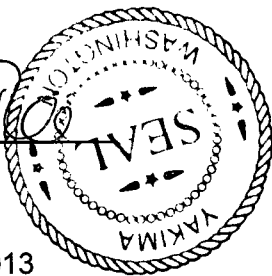
PASSED BY THE CITY COUNCIL, signed and approved this 8th day of October, 2013.



Micah Cawley Mayor

ATTEST:

By 
City Clerk



Publication Date: October 11, 2013

Effective Date: November 10, 2013